

Remarks

Claims 1-36 and 39-41 are pending and are rejected.

Prosecution Reopened

Applicant notes that prosecution is reopened for this application, and that this office action is a non-final office action. Hence, Applicant exercises the option of filing a reply under 37 CFR 1.111.

Provisional Double Patenting Rejection

Applicant respectfully believes that the present Amendment overcomes the provisional double patenting rejection set forth in the Office Action.

Claim Rejections Under 35 USC 101

Claims 1-36 and 39-41 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.

New head claim 45 transforms an optical element with a non-rotational symmetric temperature distribution into an optical element with an improved homogenization of the temperature distribution. Explicit calculation results achieved with the method of finite element model are shown in connection with Figures 5 and 6 in the present application, showing useful, concrete and tangible results.

New head claim 45 meets both requirements (1) and (2) set forth in paragraph 1, page 4 of the office action. Consequently, Applicant respectfully believes that the present amendment overcomes these rejections under 35 USC 101.

On page 5, paragraph 1, the Office Action states that "Applicant uses negative language to claim an undetermined number of shapes of the heat supply. The combination of one or more of the above factors causes the claimed invention to be

unrepeatable by one of ordinary skill in the art.” Applicant respectfully does not understand this statement, since the key of the invention is that the invention can be applied to any radiation source that heats the optical element in a non-rotational symmetric way, as shown by exemplary infinite element calculation. Further, the teaching is also given that the explicit design must be calculated by simulation, as described, for example, in paragraph [0031] of the present application. As examples, two shapes of a “heat supply” are given in Figures 1 and 2. It is obvious for a person of ordinary skill in the art what is meant by “...is heated by radiation from the light source in a non-rotationally symmetric fashion...” due to the examples set forth in the specification. Therefore, Applicant respectfully believes that this portion of the “101” rejection is overcome.

Claim Rejections Under 35 USC 112

Claims 1-36 and 39-41 are rejected under 35 USC 112 as failing to comply with the enablement requirement. It is respectfully noted that the currently amended or cancelled claims overcome the “112” rejection, since concrete features for the passive heat conducting devices are given in the claims. One of ordinary skill in the art does not need undue experimentation to make and/or use the invention, since with the common practice of simulations as mentioned in the present application, a design of, for example, the heat conducting device with the claimed features is possible for a person of ordinary skill in the art.

Objections regarding best mode would be surprising, since a technical realization showing how to get the best mode of the invention was calculated for two concrete examples.

Claim Rejections Under 35 USC 102

Claims 1, 36 and 37 are rejected as being anticipated by Hyatt. It is noted that claims 1, 36 and 37 are cancelled in this Amendment.

Claims 2, 3, 7-10, 18, 19, 22, 23, 27-31 and 41 are rejected as being anticipated by Unno. It is noted that claims 2, 3, 7-10, 18, 19, 22, 23, and 27-30 are cancelled in this Amendment. Claims 31 and 41 are currently amended. Thus, Applicant respectfully believes that the present Amendment overcomes the rejection based on Unno.

Claim Rejections Under 35 USC 103

Claims 1, 5, 6, 17, 21, 25, 26 and 39 are rejected as being unpatentable over Unno in view of Nishi. Applicant respectfully believes that the cancellation of claim 1, and amendments to claims 5, 6, 17, 21, 25, 26 and 39 overcome the "103" rejections based on Unno in view of Nishi.

Claim 16 is rejected under 35 USC 103 as being unpatentable over the combination of Unno and O'Brien and further in view of Tsugami. Claim 16 is cancelled in this Amendment.

Claim 35 is rejected as being unpatentable over the combination of Unno and Nishi and further in view of O'Brien. Applicant respectfully believes that claim 35, as currently amended, overcomes this rejection.

Claim 36 and 40 are rejected as being unpatentable over Unno in view of O'Brien. Claim 36 is cancelled. Applicant respectfully believes that claim 40, as currently amended, overcomes this rejection.

Applicant respectfully argues that the claims, as currently amended, overcome O'Brien, since O'Brien does not show the characterizing features of the currently amended claims.

Remarks Regarding the Corresponding Foreign Application

It is noted that a patent (EP 0 938 009 B1) has now been granted for the corresponding foreign application, and includes features set forth in claim 45 of the present Amendment.

Applicant respectfully believes that the claims, as currently amended, are allowable.

Wherefore further consideration and allowance of the application as amended is respectfully requested.

A three-month extension of time in which to respond to the outstanding Office Action is hereby requested. PTO-2038 authorizing credit card payment for the amount of \$1,020 is enclosed for the prescribed Large Entity three-month extension fee.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify under 37 CFR §1.8(a) that this correspondence is being submitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 by facsimile transmission on 5/15/2006, fax number (571) 273 8300.



M. Robert Kestenbaum